

NPDES PERMITTING FOR STORMWATER DISCHARGES

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The U.S. EPA issued final regulations in November 1990 that require National Pollutant Discharge Elimination System (NPDES) Phase I permits for stormwater discharges associated with eleven categories of industrial activities and municipal separate storm sewer systems. Within the Maryland Department of the Environment (MDE), the Water Management Administration (WMA) administers this permit program. Ten of the industrial categories are permitted through WMA's Wastewater Discharge Permit Program. Examples of these activities are hazardous waste treatment facilities; landfills; open dumps receiving industrial waste; steam electric power generating facilities; mass transit, school bus, and trucking facilities; hazardous waste storage facilities; land application sites; recycling facilities (junk yards, etc); vehicle maintenance facilities; and treatment works for domestic sewage. These are activities that are similar to those traditionally permitted by MDE for wastewater through industrial discharge permits. The eleventh industrial activity subject to the stormwater permit requirements is construction activity that disturbs more than 5 acres. WMA's Compliance Program permits this activity and WMA's Nonpoint Source Program permits municipal separate storm sewer systems.

INDUSTRIAL ACTIVITY

EPA's original regulations provided three types of applications for industrial stormwater discharge permits. These were individual applications, group applications, and notices of intent (NOI) to comply with a general permit. The deadlines for these applications were October 1992 for an individual application or an NOI and September 1991 for group applications. An individual permit application required information describing the industry and its stormwater management provisions. It also required the submission of monitoring data. An alternative to an individual application was a group application. Industries making a group application were required to submit information describing the industries included in the group to EPA. EPA then determined whether the industries were sufficiently similar to warrant being covered by a general permit. If the group was valid, then only representative monitoring data need be reported. This resulted in substantial cost savings to all the industries in the group. The third industrial application alternative was an NOI. This method required Maryland to issue a general permit with conditions the permitted activity must meet. For example, MDE issued a general permit for construction activity. Owners of affected construction sites currently submit an NOI to be covered by MDE's General Permit for Construction Activity.

Maryland is in a good position with respect to permitting construction activity. There are comprehensive, statewide sediment control and stormwater management programs in place currently that satisfy NPDES mandates. In other words, the permitting of construction sites is transparent due to the requirements that exist under State laws. Questions regarding the General Permit for Construction Activity should be directed to MDE's Compliance Program at (410) 537-3510.

MDE uses a second general permit to provide coverage to the remaining ten categories of industrial activity. Questions regarding this general permit should be directed to the Wastewater Discharge Permit Program at (410) 537-3323.

MUNICIPAL SEPARATE STORM SEWER PERMITS

Federal stormwater regulations require separate storm sewer systems serving “large” and “medium” municipalities to be permitted under NPDES. A “large” system is one that serves a municipal population of 250,000 or more. A “medium” system serves a population between 100,000 and 250,000. The following jurisdictions in Maryland are “large” municipalities: Anne Arundel, Baltimore, Montgomery, and Prince George's Counties; and Baltimore City. Carroll, Charles, Frederick, Harford and Howard Counties are considered “medium” municipalities. Maryland's State Highway Administration (SHA) is also permitted under Phase I NPDES. The municipal permit application requirements were substantially the same for both “large” and “medium” municipalities.

Municipal NPDES stormwater applications were exhaustive and submitted to MDE in two parts over two years. Part I can best be described as an inventory process. Municipalities submitted descriptions of existing legal authority to control storm drain system discharges, eliminate sources of pollution, and implement various management programs. Where authority was wanting, schedules were provided to address the deficiencies found. One of the more onerous Part I tasks was field screening of upwards of 500 major storm drain outfalls for dry weather flow. This activity required significant storm drain system mapping and field chemical testing all in an effort to investigate non-stormwater related pollutant sources.

Part II of the application process built on information and those data submitted in the first year. Mechanisms needed to be established for addressing inadequate legal authority; the location of outfalls not discovered previously needed to be submitted; and descriptions needed to be provided for programs to be implemented for things like erosion and sediment control and stormwater management. Additionally, extending the monitoring and field screening work performed in Part I, localities were required to analyze samples from their respective storm drain systems under storm conditions. Storm flow samples were required to be collected and tested for 138 constituents in an effort to characterize the pollutants generated from specific land uses.

The federal regulations specify only the information that municipalities must submit in their applications. The regulations do not describe permit requirements or conditions. To cover Phase I municipal dischargers, MDE issued 10 individual permits to localities, one individual permit to the SHA, and 2 general permits for industrial activity.

NPDES – Phase II

Because of federal Clean Water Act changes and a lawsuit filed by the Natural Resources Defense Council (NRDC), EPA issued Phase II regulations in December 1999. Phase II of the NPDES stormwater program increases significantly the number of places and activities that will need to be permitted. For example, the construction activity permitting threshold was lowered from 5 acres to one. This affects hundreds of construction projects but, again, the affect on the regulated community will be minimal because of existing programs.

On the municipal side, Phase II requires permit coverage for “small” municipal separate storm sewer systems. Those affected are typically municipalities under 100,000 in population located in a census-designated “urbanized area.” In simpler terms, this includes small places in the more populated areas of Maryland. MDE is developing two general permits to provide coverage for the 50+ localities and

hundreds of State and federal facilities affected by Phase II.